RSC Republican Study Committee
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Rep. Mike Pence (R-IN), Chairman
Sheila Cole, Executive Director
426 Cannon House Office Building
Washington, DC 20515
Ph (202) 226-9717 / fax (202) 226-1633

To: RSC Members
From: Congressmen Mike Pence and Jeb Hensarling
Re: Budget Implications of the Abandoned Mine Land Proposal

According to press reports, there are efforts to add legislative changes to the Abandoned Mine Land Fund (AML) to either the pensions conference report or to any tax extender bill. Such changes would add a new entitlement to current law and *greatly exceed the budget resolution*.

Background: The Abandoned Mine Land (AML) fund was created in 1977 as part of the Surface Mining Control and Reclamation Act. The purpose of the AML was to provide for reclamation and environmental cleanup of abandoned mines in place prior to August 3, 1977.

To finance these activities, fees were placed on coal production and the receipts placed in the AML. Specifically, production fees of 35 cents per ton of surface mined coal, 15 cents per ton of coal mined underground and 10 cents per ton of lignite are collected from coal producers at all active coal mining operations. The authorization to collect these fees was scheduled to expire at the end of FY 2004, but has been subsequently extended a number of times, most recently through FY 2007.

Under current law, AML receipts are split between states and the federal government. Federal funding is discretionary and subject to annual appropriations. In recent years, the value of these receipts has not been fully appropriated. However, a notional "interest" on these AML receipts is paid from general revenues to the United Mine Workers Combined Benefit Fund (CBF), to pay the health benefits of retirees of coal companies who have left the industry or gone bankrupt.

Proposed AML Fix: The AML proposal—championed by Sen. Rick Santorum and Rep. Barbara Cubin (an RSC Member who distributed information strongly advocating the fix in an "RSC Item," dated July 26, 2006, that we commend to your attention)—would make a number of changes to the program. While extending the AML fees for 15 years, it would *reduce* the fees on coal by 10% in 2008, and by a total of 20% in 2013, and thereafter—meaning that coal companies would be contributing less to the AML program.

In addition, the program would be converted from discretionary to mandatory, *costing $4.9 billion over ten years in new direct spending* according to CBO. The cost is generated from three new spending items: (1) a repayment to states *from general revenues* of any unobligated balances (i.e. the value of the AML fees not appropriated); (2) the removal of a cap on the amount of general fund "interest" transfers to the CBF (currently the transfer is capped at $70 million annually); and (3) the expansion of the CBF's beneficiaries to include two new health plans for retired mine workers.

Budget Implications: Since the AML program is currently discretionary, the proposed conversion to a mandatory program would add $4.9 billion in new entitlement spending. Furthermore, CBO estimates that the proposed fix would increase the deficit by $3.9 billion over ten years. (CBO credits the fix for bringing in $1 billion over ten years by extending the fees, albeit at a lower rate. This extension offsets the full cost of $4.9 billion over ten years.) In addition, by removing these spending items from the appropriations process, it frees up an equivalent amount under the budget to be spent on other discretionary items.

Supporters of the AML fix contend that there is no real cost to the taxpayer—that only coal money is being used to pay for coal problems ("revenue that the federal government receives from the coal industry"). Specifically, supporters believe that receipts currently being collected under the Mineral Leasing Act (MLA) from coal-related rents, royalties, bonuses and lease sales should fund the AML program. Under current law these MLA revenues do not go to the AML but fund other activities. However, in the proposed AML fix this would not change—MLA revenues would still not be deposited in the AML or support the AML program.

AML supporters propose to spend an equivalent amount of general fund tax dollars *as if the MLA receipts had been credited to the AML trust fund*. Unfortunately, these MLA receipts are already accounted for, and the fix neither brings in sufficient new revenues nor redirects the existing MLA revenues to the AML program. However, this does not change the fact that if enacted, the fix would cause the federal government to spend more than it would before—all at the same time that the AML coal fees are being reduced.

In a letter to Senator Enzi, the Administration concurred with the analysis above, stating:

> The Administration opposes the proposed amendments to SMCRA because they would create new mandatory spending and extend health benefits to new groups of former coal industry employees at the taxpayer's expense. In addition, the amendments do not substantially contribute to the reclamation of abandoned coal sites.

Bottom Line: *In short, the AML proposal would require coal companies to pay less in fees, states and retired workers to receive more in benefits, and the federal government to cover the difference.* Some conservatives may be concerned that this is not a good deal for the American taxpayer. CBO estimates that it will cost taxpayers $4.9 billion over ten years, and the House Budget Committee has confirmed that if attached to the pensions conference report or another bill on the move (without offsets), it will violate the FY 2007 budget resolution. As a result, if attached in violation of the budget resolution, Members would be asked to waive budget points of order lying against the legislation (and thus waive the budget) in voting for the rule governing consideration of the bill.

For more information, please contact Russ Vought (x68581) or Stephen Sepp (x68583)